

**BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE,
DIVISION OF WATER RESOURCES, TOPEKA, KANSAS**

FINDINGS AND ORDER

NOW ON THIS 24th day of May, 2005, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, makes the following Findings and Order regarding the use of water for “stockwatering” purposes:

FINDINGS

1. That the Kansas Water Appropriation Act (KWAA), K.S.A. 82a-728(a), provides that;

Except for the appropriation of water for**domestic use**.... it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of chapter 7 of article 82a of the Kansas Statutes Annotated.... (Emphasis supplied)
2. That “domestic uses” is defined in the KWAA to include “the watering of livestock, poultry, farm and domestic animals used in operating a farm...” K.S.A. 82a-701(c)
3. That in 1985, at the recommendation of the Governor’s Task Force, the KWAA regulations were amended to provide that water used for confined livestock operations of 1,000 head or more was not a “domestic” use of water.
4. That the definition of “stockwatering” was clarified in 2000 to read, “Stockwatering” means the watering of livestock and other uses of water directly relating to either of the following: (A) The operation of a feedlot with the capacity to confine 1,000 head or more of cattle; or (B) any other confined livestock operation or dairy that would divert 15 acre-feet or more of water per calendar year.” See K.A.R. 5-1-1 (www)
5. That since 1985 any person using water for stockwatering purposes has been required to have a water right or permit to appropriate water for stockwatering purposes from the Chief Engineer.
6. That since 1985, the Division of Water Resources has actively attempted to identify and work with those persons who had a pre-1985 confined feeding operation that was operating under a “domestic use” of water, but after 1985 was no longer domestic use because it became a “stockwatering” use as a result of a change in the regulations. For 20 years the Chief Engineer has allowed a grace period to change those domestic water rights into stockwatering rights and thereby bring those operations into compliance with the applicable requirements of the KWAA. This grace period will end on December 31, 2005.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the Chief Engineer shall not approve any application to change the use made of water from domestic use to stockwatering use if: (a) the application is **filed after December 31, 2005; and** (b) the annual **quantity exceeds** the quantity of water actually used for: (1) the operation of a feedlot with the capacity to confine 1,000 head or more of cattle; or (2) any other confined livestock operation or dairy that diverted 15 acre-feet or more of water per calendar year.

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David L. Pope, P.E.
Chief Engineer

May 24, 2005

Date

Certificate of Service

A copy of the foregoing Order was sent by certified mail this 24th day of May 2005, to the following:

\s\

Jessica Lynn